



126th MAINE LEGISLATURE

FIRST REGULAR SESSION-2013

Legislative Document

No. 1293

H.P. 920

House of Representatives, April 2, 2013

An Act To Create the Presque Isle Utilities District

Reference to the Committee on Energy, Utilities and Technology suggested and ordered printed.

Millicent M. MacFarland
MILLICENT M. MacFARLAND
Clerk

Presented by Representative WILLETTE of Mapleton.
Cosponsored by Representative SAUCIER of Presque Isle, Senator SHERMAN of Aroostook.

1 **Be it enacted by the People of the State of Maine as follows:**

2 **Sec. 1. Territorial limits and corporate name and purposes.** The
3 inhabitants and territory of the City of Presque Isle constitute a quasi-municipal
4 corporation under the name of the Presque Isle Utilities District, referred to in this Act as
5 "the utilities district," for the purpose of supplying the inhabitants of the utilities district
6 with potable water for domestic, commercial, sanitary and municipal purposes and for the
7 purpose of providing in the utilities district a system of public sewerage and drainage for
8 the comfort, convenience and health of the inhabitants of the utilities district.

9 **Sec. 2. Powers of the Presque Isle Utilities District.** The utilities district is
10 authorized to take, hold, divert, use and distribute water from any source within the
11 territory of the utilities district, including the Presque Isle Stream in the Town of
12 Mapleton, the Town of Chapman and Township 10, Range 3. The utilities district is also
13 authorized, for the purposes of its incorporation, to locate, construct and maintain pipes,
14 dams, wells, reservoirs, pumping stations, treatment plants and other necessary structures
15 and equipment and to do all things necessary to furnish water, sewerage and drainage for
16 those purposes and for the public health, safety, comfort and convenience of the
17 inhabitants of the utilities district.

18 **Sec. 3. Authorized to lay mains, pipes, conduits and other water**
19 **conveyances through public ways and across private lands.** The utilities district
20 is authorized to lay, maintain, repair and replace pipes, mains and other fixtures and
21 appurtenances in, along and through the streets, roads, ways, highways, bridges, lakes,
22 ponds, rivers and water courses and in, along and through the private lands of any person
23 or corporation within the utilities district. When the utilities district lays, maintains,
24 repairs or replaces pipes, mains and any fixtures or appurtenances in any street, road, way
25 or highway, it shall do so with as little obstruction as practicable to public travel and shall
26 at its own expense and without unnecessary delay replace in proper condition the earth
27 and pavement removed by it.

28 The utilities district is authorized to lay, maintain, repair and replace pipes, mains and
29 other fixtures and appurtenances to or into any drain or sewer now or hereafter built that
30 empties into rivers, watercourses or treatment works, the discharge to be at such point or
31 points consistent with the requirements of public health and as convenient and reasonable
32 for the utilities district and the flow of existing watercourses.

33 **1. Sewer extensions.** Sewer extensions are governed by the Maine Revised Statutes,
34 Title 38, section 1252, subsection 7.

35 **2. Abutting owners have right to enter.** The utilities district shall permit the
36 owners of premises abutting upon its lines of pipes and conduits to enter the same with all
37 proper sewerage and to connect the same for potable water, if the owners of such
38 premises conform to the rules and regulations of the utilities district and pay the
39 established rates, tolls, rents and other lawful charges.

40 **3. Inspection of sewers.** The officers or agents of the utilities district must have free
41 access to all premises served by its sewers at all reasonable hours for inspection of
42 plumbing and sewage fixtures to ascertain the quality and quantity of sewage discharged

1 and the manner of discharge and to enforce the rules and regulations of the utilities
2 district.

3 **4. Injury to the property of the utilities district.** Any person who places,
4 discharges or leaves any offensive or injurious matter or material on or in the conduits,
5 manholes or receptacles of the utilities district contrary to its regulations or who
6 knowingly injures any conduit, pipe, manhole, pump or other property held, owned or
7 used by the utilities district is liable to pay twice the amount of the damages to the
8 utilities district, to be recovered in any proper action.

9 **Sec. 4. Authority to acquire property; right of eminent domain**
10 **conferred; procedures in exercising eminent domain.** The utilities district is
11 authorized and empowered to acquire and hold real and personal property necessary or
12 convenient for its purposes. The utilities district is granted the right of eminent domain as
13 specified in the Maine Revised Statutes, Title 38, section 1152 with respect to its sewer
14 functions and is granted the right of eminent domain as specified in Title 35-A, section
15 6408 with respect to its water functions.

16 **1. Procedure as to the exercise of right of eminent domain for sewer.** With
17 respect to the sewer functions of the utilities district, the procedures for the exercise of
18 eminent domain must conform to Title 38, sections 1152-A, 1153 and 1154.

19 **2. Procedure as to the exercise of right of eminent domain for water.** With
20 respect to the water functions of the utilities district, the procedures for the exercise of
21 eminent domain must conform to Title 35-A, section 6409.

22 Except as otherwise provided by law, the utilities district may not take by right of
23 eminent domain any property or facilities of any other public utility used or acquired for
24 future use in the performance of a public duty.

25 **Sec. 5. Procedure if public utility must be crossed.** If the utilities district, in
26 constructing, maintaining or replacing any of its facilities, must cross any property of
27 another public utility, the utilities district must obtain the consent of the other public
28 utility and undertake the work in accordance with conditions established by agreement.
29 If, within 30 days after requesting consent, the utilities district fails to reach an agreement
30 with the public utility, the district may petition the Public Utilities Commission to
31 determine the time, place and manner of the crossing. All work must be done under the
32 supervision and to the satisfaction of the public utility or as prescribed by the
33 commission. All work must be done at the expense of the utilities district.

34 **Sec. 6. Trustees, appointment; tenure of office; vacancies; first meeting**
35 **and organization of board; annual report; transition provisions.** All the affairs
36 of the utilities district are managed by a board of 7 trustees who must be residents of the
37 City of Presque Isle and who are appointed by the city council of the City of Presque Isle,
38 but no member of the city council may, during the term for which the member is elected,
39 be appointed as a trustee of the utilities district. The trustees hold office for terms of 3
40 years and until their respective successors are appointed and qualified, except that the
41 trustees in office for the Presque Isle Sewer District and Presque Isle Water District when
42 this Act becomes effective serve as the first trustees of the utilities district.

1 As soon as convenient after this Act becomes effective, the trustees shall meet and
2 elect from among their members a president and clerk, adopt a corporate seal and elect a
3 treasurer, who may or may not be a trustee, and any other officers and agents as needed,
4 who with the treasurer serve at the pleasure of the trustees. The treasurer shall furnish a
5 bond in the sum and with sureties approved by the trustees. The utilities district shall pay
6 the cost of the bond. Members of the board of trustees may hold any office under the
7 board, but may not receive any compensation, except as trustees, unless authorized by
8 vote of the city council of the City of Presque Isle. The compensation of the trustees is
9 \$500 per annum, unless otherwise provided by vote of the city council. Whenever a
10 vacancy occurs in the office of president, clerk or treasurer it must promptly filled by the
11 trustees.

12 Whenever the term of office of a trustee expires, the city council of the City of
13 Presque Isle shall appoint a successor to serve the full term of 3 years. If any other
14 vacancy arises from any cause it must be filled in like manner for the unexpired term. All
15 trustees are eligible for reappointment. Trustees must be sworn to the faithful
16 performance of their duties by the clerk of the City of Presque Isle. When any trustee
17 ceases to be a resident of the City of Presque Isle, that trustee vacates the office of trustee.
18 The trustees may adopt and establish bylaws consistent with the laws of the State and
19 necessary for the convenience and the proper management of the affairs of the utilities
20 district and perform other acts within the powers delegated by law to the trustees. The
21 trustees shall publish an annual financial report.

22 **1. Transition provisions; annual meeting.** The terms of office of the 6 existing
23 trustees of the Presque Isle Sewer District and the Presque Isle Water District change as
24 follows: the terms of office of the 2 trustees whose terms expire in 2014 instead expire in
25 2013; the terms of office of the 2 trustees whose terms expire in 2015 instead expire at
26 the end of the 2013-14 municipal fiscal year; and the terms of office of the 2 trustees
27 whose terms expire in 2016 instead expire at the end of the 2014-15 municipal fiscal year.
28 The term of office of the new trustee added by this Act, who will be appointed by the city
29 council of the City of Presque Isle, expires at the end of the 2015-16 municipal fiscal
30 year.

31 Within one month after each annual appointment, the trustees of the utilities district
32 shall meet for the purpose of electing a president, clerk and treasurer from among them to
33 serve for the following year.

34 **Sec. 7. Authorized to make and assume contracts.** The utilities district,
35 through its trustees, in order to carry out the purposes of its incorporation is authorized to
36 contract with persons, districts, municipalities, utilities or corporations.

37 **Sec. 8. Authorized to acquire property and franchises of the Presque Isle**
38 **Water District.** The utilities district is authorized and empowered to acquire by
39 purchase or by the exercise of the right of eminent domain the entire plant, property,
40 franchise, property rights, privileges and assets owned by the Presque Isle Water District,
41 including all land, waters, water rights, reservoirs, pipes, machinery, fixtures, hydrants,
42 tools and all apparatus and appliances used or usable in supplying water facilities and
43 drainage in the territory served by the water district.

1 **Sec. 9. Authorized to acquire property and franchises of the Presque Isle**
2 **Sewer District.** The utilities district is authorized and empowered to acquire by
3 purchase or by the exercise of the right of eminent domain the entire plant, property,
4 franchise, property rights, privileges and assets owned by the Presque Isle Sewer District,
5 including all land, easements, mains, conduits, fixtures, pumping stations, basins,
6 treatment facilities and outlets used or usable in providing a public system of public
7 sewerage and drainage in the territory served by the district.

8 **Sec. 10. Authorized to borrow money; to issue bonds and notes.** For
9 accomplishing the purposes of this Act, the utilities district, by vote of its board of
10 trustees, is authorized to borrow money temporarily and to issue for the borrowing of
11 money its negotiable notes.

12 The utilities district, by vote of its board of trustees, is authorized to issue bonds,
13 notes or other evidences of indebtedness of the utilities district, bearing interest at a rate
14 or rates and having terms and provisions as the trustees determine. All notes and bonds
15 with a maturity of more than one year and issued in connection with the water system
16 only must first be approved by the Public Utilities Commission.

17 All bonds, notes and other evidences of indebtedness issued by the utilities district
18 must have inscribed upon their face the corporate name of the utilities district and be
19 signed by the treasurer and countersigned by the president of the board of trustees of the
20 utilities district.

21 All bonds, notes and evidences of indebtedness issued by the utilities district are legal
22 obligations of the utilities district, which is declared to be a quasi-municipal corporation
23 within the Maine Revised Statutes, Title 35-A, section 6412. All bonds, notes and other
24 evidences of indebtedness issued by the utilities district are legal investments for savings
25 banks and are exempt from state income tax.

26 **Sec. 11. Property tax exempt.** The property of the utilities district is exempt
27 from all taxation in the City of Presque Isle.

28 **Sec. 12. Sewer rates payable; adoption of new rates; application of**
29 **revenue; collection of unpaid rates; authority to disconnect water for**
30 **nonpayment of sewer service.** All individuals, firms and corporations, whether
31 public, private or municipal, shall pay to the treasurer of the utilities district the sewer
32 rates, tolls, rents and other lawful charges established by the trustees for the sewer or
33 drainage service used or available with respect to their real estate. All sewer rates, tolls,
34 rents and other lawful charges are governed by the Maine Revised Statutes, Title 38,
35 section 1202.

36 Prior to the adoption of a new sewer rate schedule, the trustees shall hold a public hearing
37 regarding the proposed rate schedule. The trustees shall publish the proposed sewer rates
38 and notice of the hearing at least once in a newspaper having a general circulation in the
39 district not less than 7 days prior to the hearing. The district shall mail to each ratepayer a
40 notice of the public hearing and the proposed new sewer rates at least 14 days prior to the
41 hearing.

1 The sewer rates, tolls, rents and other lawful charges are established to provide revenue
2 for the following purposes:

3 1. To pay the current expenses for operating and maintaining the sewer system
4 including depreciation;

5 2. To provide for payment of the principal of, premium on, if any, and interest on all
6 bonds and notes issued by the utilities district for the benefit of its sewer system, as the
7 same become due and payable;

8 3. To create and maintain such reserves as may be required by any trust agreement or
9 resolution securing bonds and notes; and

10 4. To provide funds for paying the cost of all necessary repairs, replacements and
11 renewals of the sewer system of the utilities district.

12 There may be a lien issued on real estate served or benefited by the sewers of the utilities
13 district to secure the payment of unpaid sewer rates and other lawful charges. The sewer
14 lien takes precedence over all other claims on the real estate, except claims for taxes. The
15 procedures for obtaining, enforcing and receiving payment on the sewer lien must
16 conform to Title 38, sections 1208 and 1208-A.

17 Notwithstanding any other provision of law, in the event a user of the utilities district's
18 sewer system fails within a reasonable time to pay the utilities district's rates, fees or
19 charges for sewer service, the utilities district may disconnect water service to the user, as
20 long as the disconnection is accomplished in accordance with procedures established in
21 applicable law or rules governing disconnection of utility services and terms and
22 conditions approved by the Public Utilities Commission.

23 **Sec. 13. Water rates; application of revenue; sinking fund.** All individuals,
24 firms and corporations, whether public, private or municipal, shall pay to the treasurer of
25 the utilities district the rates and other lawful charges established by the trustees for the
26 water used or made available to them. All water rates and other lawful charges of the
27 utilities district are governed by the Maine Revised Statutes, Title 35-A, chapter 61.

28 The water rates and other lawful charges are established to provide revenue for the
29 following purposes:

30 1. To pay the current expenses for operating and maintaining the water system
31 including depreciation;

32 2. To provide for the payment of interest on the indebtedness created by the utilities
33 district for the benefit of its water system; and

34 3. To provide each year a sum equal to not less than 1% nor more than 5% of the
35 entire indebtedness created by the utilities district for the benefit of its water system,
36 which sum must be turned into a sinking fund to provide for the extinguishment of said
37 indebtedness. The money set aside for the sinking fund must be devoted to the retirement
38 of the obligations of the utilities district or invested in such securities as savings banks are
39 allowed to hold. The trustees may, in their discretion and in lieu of the establishment of a

1 sinking fund, issue bonds of the utilities district so that not less than 1% of the amount of
2 the bonds so issued mature and are retired each year.

3 There may be a lien issued on real estate served by the utilities district to secure the
4 payment of unpaid water rates and other lawful charges. The water lien takes precedence
5 over all other claims on the real estate, except claims for taxes and sewer rates. The
6 procedures for obtaining, enforcing and receiving payment on the water lien is governed
7 by Title 35-A, section 6111-A.

8 **Sec. 14. Incidental powers granted.** All incidental powers, rights and privileges
9 necessary to the accomplishment of the objectives set forth in this Act are granted to the
10 utilities district.

11 **Sec. 15. Referendum; effective date.** This Act takes effect when approved only
12 for the purpose of permitting its submission to the legal voters within the City of Presque
13 Isle at a referendum called for that purpose and held within 2 years of the effective date
14 of this Act. The election must be called by the city council of the City of Presque Isle and
15 must be held at the regular voting places. The referendum must be called, advertised and
16 conducted according to the law relating to municipal elections. The registrars shall make
17 a complete list of all the eligible voters of the proposed district as described in this Act.
18 The list prepared by the registrars governs the eligibility of a voter. For the purpose of
19 registration of voters, the registrars of voters must be in session the regular workday
20 preceding the referendum. The subject matter of this Act is reduced to the following
21 question:

22 "Do you favor merging the Presque Isle Water District and the Presque
23 Isle Sewer District to create the Presque Isle Utilities District?"

24 The voters shall indicate by a cross or check mark placed against the word "Yes" or
25 "No" their opinion of the same.

26 The results must be declared by the city council of the City of Presque Isle and due
27 certificate of the results filed by the clerk with the Secretary of State.

28 This Act takes effect for all other purposes immediately upon its approval by a
29 majority of the legal voters of the City of Presque Isle voting at the referendum. Failure
30 to achieve the necessary approval in any referendum does not prohibit subsequent
31 referenda consistent with this section as long as the referenda are held within 2 years after
32 the effective date of this Act.

33 **SUMMARY**

34 This bill combines the Presque Isle Sewer District and the Presque Isle Water District
35 to create the Presque Isle Utilities District.